

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,  
  
Plaintiff,  
  
v.  
  
MARKQUEZ BARNES,  
  
Defendant.

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Case No. [22-cr-00429-VC-1](#)

**ORDER DENYING MOTION TO  
SUPPRESS**

Re: Dkt. No. 22

The motion to suppress is denied. The affidavit provides a “colorable argument” for probable cause; it is not so bare bones that no reasonable officer could have relied on it. *United States v. Underwood*, 725 F.3d 1076, 1085 (9th Cir. 2013). And Barnes has not established that any facts left out of the affidavit were material. “In determining materiality, ‘[t]he pivotal question is whether an affidavit containing the omitted material would have provided a basis for a finding of probable cause.’” *United States v. Chavez-Miranda*, 306 F.3d 973, 979 (9th Cir. 2002) (quoting *United States v. Garcia-Cruz*, 978 F.2d 537, 541 (9th Cir. 1992)). If the affidavit had included all the omitted material—especially the fact that 42 Brookdale was Barnes’ mother’s address—it would have supported a finding of probable cause to believe that evidence of his criminal activity would be found at that address.

**IT IS SO ORDERED.**

Dated: March 23, 2023

  
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VINCE CHHABRIA  
United States District Judge